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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/719,636	11/21/2003	Joseph Z. Sleiman	16357-002001	3471

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EXAMINER
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PURVIS, SUE A

ART UNIT	PAPER NUMBER
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1734

DATE MAILED: 06/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/719,636

Applicant(s)

SLEIMAN ET AL.

Examiner

Sue A. Purvis

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**Period for Reply**  
-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 07 March 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 24 is/are allowed.
- 6) ☒ Claim(s) 1, 11-13, 16-19, 22 and 23 is/are rejected.
- 7) ☒ Claim(s) 2-10, 14, 15, 20 and 21 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 11-21-03 & 4-25-05
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Allowable Subject Matter***

1. Upon further consideration, the indicated allowability of claims 11 and 17-19 is withdrawn in view of the reference of Sardo (US Patent No. 6,349,755 B1). Rejections based on the reference follow.

### ***Claim Objections***

2. Claim 17 is objected to because of the following informalities: Applicant claims a "stereoscopic camera." It appears this should be "stereoscopic camera." Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claim 18 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. It is unclear how "images with sound waves" is incorporated into the invention. There is no mention of the use of sounds waves in the specification.

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

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The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claim 18 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

7. The claim is generally narrative and indefinite, failing to conform with current U.S. practice. It is unclear what the applicant is trying to claim.

***Claim Rejections - 35 USC § 102***

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 1, 11, 12, 16, 22, and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by Sardo (US Patent No. 6,349,755 B1).

Sardo discloses a labeling system including a plurality of labelers (40), an imager (32) for imaging the products, and a processor (18) for evaluating the image which is operatively connected to the labelers. (Figures 1 and 2.) The processor using the camera (32) and feelers (22) communicated to the plurality of labelers and enables the positioning of each labeling head based on the position of the article to be labeled.

Regarding claim 11, Sardo also teaches a use of a conveyor to advance the articles to be labeled.

Regarding claim 12, the articles being labeled in Sardo are produce.

Regarding claim 16, the camera in combination with the feelers create a topographic image by calculating the geometry of the articles.

***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sardo as applied to claim 1 above, further in view of Rietheimer (US Patent No. 6,645,680).

Sardo does not detail the type of labeler used, however one having ordinary skill in the art would appreciate looking to Rietheimer (which is also a produce labeler) that tamping labelers are well known in the art to be used for labeling produce. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a tamping labeler in Sardo, because they are well known and used often in the art because they gently contact the fruit and thus minimize bruising which contact to the produce can create.

12. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sardo as applied to claim 1 above.

Sardo does not discuss the type of camera used, however it would have been obvious to one having ordinary skill in the art at the time the invention was made to use a stereoscopic camera in Sardo, because stereoscopic cameras are well-known and it is within the purview of the artisan to choose that type of camera.

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13. Claims 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sardo as applied to claims 1 and 16 above, and further in view of Rahim (US Patent No. 5,155,683).

It would have been obvious to one having ordinary skill in the art at the time the invention was made that a camera of Sardo can be interchanged with a different type of camera or imaging system, such as a radar or sonar imager, because Rahim teaches that these are known in the art and interchangeable. (See Col. 5, lines 62-65.)

#### ***Allowable Subject Matter***

14. Claim 24 is allowed.

15. Claims 2-10, 14, 15, and 21 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sue A. Purvis whose telephone number is (571) 272-1236. The examiner can normally be reached on Monday through Friday 9am to 6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher A. Fiorilla can be reached on (571) 272-1187. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Sue A. Purvis  
Primary Examiner  
Art Unit 1734

SP  
June 9, 2005